IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 149 OF 2002
WITH
NOTICE OF MOTION NO. 267 OF 2003
IN
INCOME TAX APPEAL NO. 63 OF 2002

The Commissioner of Income-tax. ... Appellant.

V/s.

M/s.Hindustand Dorr Oliver Ltd. ... Respondent.

A.S.Rao for the appellant.

B.D.Damodar i/b. M/s.Kanga & Co. for the respondent.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 5th May 2005.

P.C. :

. On 11th April, 2005 following order was passed in Notice of Motion No.267 of 2003:

> "For the reasons stated in the affidavit delay in presenting appeal is condoned. Motion is allowed. Office is directed to register the appeal, if not registered, and place it for admission in due course."

In Notice of Motion No.149 of 2002 the following order is passed:

> "In view of the order passed by us on Notice of Motion No.267 of 2003, this motion does not survive."

. Today it is brought to our notice that the appeal itself has been dismissed in view of self-operating conditional order dated 18th

December, 2001 passed by the Prothonotary and Senior Master. Notice of Motion No.267 of 2003 being motion taken out by the appellant for setting aside said self-operative order and restoration of the appeal, the above-referred order dated 11th April, 2005 condoning delay in filing appeal could not have been passed in Notice of Motion No.267 of 2003. Consequently both the orders dated 11th April, 2005 passed in Notice of Motion Nos.267 of 2003 and 149 of 2002 are recalled. Motions be placed for hearing after Summer Vacation.

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